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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/047,586	10/29/2001	Edwin E. Suer	5788-01001	4694

7590

06/18/2003

Dinnin & Dunn, P.C.  
Top of Troy Building  
755 West Big Beaver Road  
Troy, MI 48084

EXAMINER

ALIE, GHASSEM

ART UNIT

PAPER NUMBER

3724

DATE MAILED: 06/18/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/047,586

Applicant(s)

SUER ET AL.

Examiner

Ghassem Alie

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 29 April 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-17 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 29 April 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 6.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

*Claim Rejections - 35 USC § 112*

1. Claims 13 and 14 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Regarding Claims 13 and 14, they fail to clearly define the terms “ blades fixed within said interior” and “a fixed plurality of blade” in claim 13, line 5 and claim 14, line 2. It is not clear how the blades can be fixed to the interior of the elongated hollow body and slide up and down during the slicing operation. It is also not clear what a “fixed plurality of blades” means. Are the blades fixed to the elongated hollow body? If so, how do the blade rack slide within the grooves.

*Claim Rejections - 35 USC § 102*

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1-5, 8-12, and 15-17 are rejected under 35 U.S.C. 102(b) as being anticipated by Priore (3,060,838). Regarding claim 1, Priore discloses a utensil 10 having an elongated hollow body 20 which is supporting or encasing an elongated food item 41. Priore also discloses that the elongated hollow body 20 includes an inner wall and outer wall forming an interior, an open first 24 end and a second end 22, a plurality of the blades 40 extending across the interior in the plane perpendicular to the inner and outer walls for cutting a food item 41. See Figs 1-4.

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Regarding claim 2, Priore discloses a plurality of grooves 26 extending from the first end 24 to a corresponding plurality of points approaching the second end 22 and a blade rack 30 slidably engaged with the outer wall for attachment of the plurality of the blades 40 wherein each of the plurality of the blades 40 correspondingly extends through one of the plurality of the grooves 26. See Figs 1-4 and col. 2, lines 17-32.

Regarding claim 3, Priore discloses a base 12 fixed to the second end. See Fig. 1.

Regarding claims 4 and 5, Priore discloses that a plurality of blades 40 includes a plurality of wires 40a wrapped about the blade rack 30. See Fig. 3.

Regarding claim 8, Priore discloses the utensil 10 wherein each of the plurality of grooves 26 are equidistantly positioned with respect to each other between the first end 24 and the second end 25. See Fig. 4.

Regarding claims 9 and 10, Priore discloses that the plurality of the blades 40,40a is fixed to the inner wall and the open first end 24. See col. 2, lines 12-52.

Regarding claims 11, 12 and 15-17, Priore discloses everything noted above including a closed second end and a cylindrical food item 41. Priore also discloses that a cylindrical food item 41 is placed within the elongated hollow body 20 of the utensil and it is cut by the downward movement of the plurality of blades 40,40a through the polarity of the grooves 26 along the length of the hollow body. See Figs 1-4 and col. 1, lines 45-64 and col. 2, lines 1-51.

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are

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such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 6, 7, 13, and 14, as best understood, are rejected under 35 U.S.C. 103(a) as being unpatentable over Priore in view of Berler (4,250,771). Regarding claims 6, 7, 13, and 14, Priore teaches everything noted above including that the blades are fixed to the handle 32 which slides within the grooves 26 of the elongated hollow body 20. See Fig. 1 and 3 and col. 1, lines 45-64 in Priore. Priore does not teach a food receptacle removably attached to the first open end and having a corresponding prong extending through a hole for holding a food product. Berler teaches a food receptacle 18 (holder) attached to the first open end and having a corresponding prong 22 extending through a hole 16 for holding a food 19. See Fig. 1 and col. 3, lines 23-66. It would have been obvious to a person of ordinary skill in the art to provide Priore's utensil with the food receptacle as taught by Berler in order to facilitate the slicing of the food by holding the food tied while it is being sliced.

#### *Response to Amendment*

6. Applicant's arguments filed 4/29/03 have been fully considered but they are not persuasive.

Applicant's assertion that the limitations added to the above claims are not described or suggested neither by Priore nor by Berler is incorrect. Priore teaches an elongated hollow 20 for supporting or encasing an elongated food item 41. The term "elongated" is a relative term and the hollow body 20 as taught by Priore is considered to be elongated body in comparison with, for example, a fry pan. The food item 41 or a supper pie is also considered to be elongated in comparison with a pancake.

*Conclusion*

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ghassem Alie whose telephone number is (703) 305-4981. The examiner can normally be reached on Mon-Fri 8:30 am - 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Allan Shoap can be reached on (703) 305-1082. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9302 for regular communications and (703) 872-9302 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1148.

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GA/ga

June 11, 2003

A handwritten signature in black ink, appearing to read 'Allan', with a long, sweeping horizontal stroke extending to the right.

Allan N. Shoap  
Supervisory Patent Examiner  
Group 3700